

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re	§	Case No. 06-34568-H5-7
	§	
INTERNATIONAL MODULAR & PANEL	§	(Chapter 7)
BUILDING SYSTEMS, INC.,	§	
	§	
Debtor.	§	

**MOTION OF EXXONMOBIL PRODUCTION COMPANY TO WITHDRAW
UNCLAIMED FUNDS DEPOSITED INTO THE REGISTRY OF THE COURT**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE KAREN K. BROWN, UNITED STATES BANKRUPTCY JUDGE:

ExxonMobil Production Company (“Exxon”) files this Motion of ExxonMobil Production Company to Withdraw Unclaimed Funds Deposited into the Registry of the Court (the “Motion”). In support of the Motion, Exxon respectfully represents:

Jurisdiction and Venue

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this case and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. On September 4, 2006 (the “Petition Date”), International Modular & Panel Building Systems, Inc. (the “Debtor”) filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code. David J. Askanase was appointed as the Chapter 7 Trustee (the “Trustee”) for the Debtor’s bankruptcy case.

3. On January 28, 2013, Exxon filed amended proof of claim number 51 in the amount of \$644,124.82 (the “Claim”).

4. On May 27, 2014, the Trustee filed the *Notice of Trustee’s Final Report and Application for Compensation and Deadline to Object (NFR)* (the “Final Report”) (Docket No. 219). A copy of the Final Report is attached hereto as **Exhibit A**. In the Final Report, the Trustee indicated that Exxon would be paid the amount of \$9,861.02 (the “Final Distribution Amount”) on account of its Claim.

5. Thereafter, the Trustee sent a check for the Final Distribution Amount to Exxon. Exxon did not deposit the check within ninety (90) days of its issuance.

6. On October 14, 2014, the Trustee filed the *Second Motion to Pay Funds into the Registry of the Court Under 11 U.S.C. § 347(b)* (the “Deposit Motion”) (Docket No. 227). In the Deposit Motion, the Trustee sought authority to deposit into the registry of the Court certain funds that remained unclaimed for more than ninety (90) days after the date of the final distribution, including the Final Distribution Amount owed to Exxon. On October 17, 2014, the

Court entered an Order granting the Deposit Motion (the “Deposit Order”) (Docket No. 228). A copy of the Deposit Order is attached hereto as **Exhibit B**.

Relief Requested

7. Pursuant to 11 U.S.C. § 347(a) and 28 U.S.C. § 2042, Exxon requests entry of an Order directing disbursement of the Final Distribution Amount from the registry of the Court to Exxon.

8. Section 347(a) of the Bankruptcy Code provides:

Ninety days after the final distribution under section 726, 1226, or 1326 of this title in a case under chapter 7, 12, or 13 of this title, as the case may be, the trustee shall stop payment on any check remaining unpaid, and any remaining property of the estate shall be paid into the court and disposed of under chapter 129 of title 28.

9. Chapter 129 of title 28 of the United States Code addresses the deposit and withdrawal of funds in the registry of the Court. Section 2041 of title 28 provides:

All moneys paid into any court of the United States, or received by the officers thereof, in any case pending or adjudicated in such court, shall be forthwith deposited with the Treasurer of the United States or a designated depository, in the name and to the credit of such court.

This section shall not prevent the delivery of any such money to the rightful owners upon security, according to agreement of parties, under the direction of the court.

28 U.S.C. § 2041. Further, Section 2042 of title 28 provides, in part, that “[n]o money deposited under section 2041 of this title shall be withdrawn except by order of court.” 28 U.S.C. § 2042.

10. Exxon respectfully requests that the Court enter an Order directing disbursement of the funds consisting of the Final Distribution Amount to which Exxon is entitled on account of its Claim against the Debtor. Pursuant to the Trustee’s Final Report, Exxon received a check for the Final Distribution Amount of \$9,861.02 on account of its Claim against the Debtor’s bankruptcy estate. When Exxon did not deposit the check for the Final Distribution Amount

within ninety (90) days after its issuance, the Trustee obtained authority from the Court to pay the Final Distribution Amount into the registry of the Court. Because Exxon is entitled to the Final Distribution Amount on account of its Claim against the Debtor's bankruptcy estate, Exxon requests that the Court direct the disbursement of the Final Distribution Amount from the registry of the Court to Exxon.

WHEREFORE Exxon respectfully requests entry of an Order (i) granting the Motion, (ii) directing the disbursement of the Final Distribution Amount from the registry of the Court to Exxon, and (iii) granting Exxon such other and further relief as is just and proper.

Dated: October 29, 2014

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Kelli M. Stephenson

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